

1  
2  
3  
4  
5  
6  
7 **UNITED STATES DISTRICT COURT**  
8 **EASTERN DISTRICT OF CALIFORNIA**  
9

10 KYLE DAVID MILTON,

11 Plaintiff,

12 v.

13 B.M. TRATE, *et al.*,

14 Defendants.  
15  
16

Case No. 1:22-cv-00988 JLT EPG (PC)

ORDER ADOPTING IN FULL  
FINDINGS AND RECOMMENDATIONS  
TO DISMISS ACTION WITHOUT PREJUDICE  
FOR FAILURE TO PROSECUTE AND  
FAILURE TO COMPLY WITH COURT'S  
ORDERS, AND DIRECTING THE CLERK OF  
COURT TO CLOSE THE CASE

(Doc. 34)

17 Kyle Milton. is proceeding *pro se* and *in forma pauperis* in this civil rights action filed  
18 pursuant to 42 U.S.C. § 1983. The Court referred the matter to a United States Magistrate Judge  
19 pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

20 Defendants Trate and Grasley<sup>1</sup> filed a motion to dismiss and for summary judgment on  
21 April 25, 2023. (Doc. 25). Defendant Paltenghi joined their pending motions on May 26, 2023.  
22 (Doc. 30.) Despite being granted multiple extensions of time, Plaintiff failed to file a response to  
23 this dispositive motion or otherwise respond to the Court's orders.

24 The assigned magistrate then issued Findings and Recommendations on November 27,  
25 2023 that this case be dismissed without prejudice for failure to prosecute and failure to comply  
26

---

27 <sup>1</sup> On the Court's docket, Dr. Grasley's name appears as "Grassley" because it was spelled that  
28 way in the Plaintiff's complaint. Defendants' Motion to Dismiss (Doc. 25 at 2, n.1), states that the  
correct spelling is "Grasley."

1 with Court's orders. (Doc. 34.) The Court served the Findings and Recommendations on Plaintiff  
2 and notified him that any objections were due within 14 days. (Doc. 34 at 4–5.) Plaintiff has not  
3 filed any objections to the Findings and Recommendations, and the time to do so has lapsed.

4 Pursuant to 28 U.S.C. § 636(b)(1)(C), this Court performed a de novo review of this case.  
5 Having carefully reviewed the matter, the Court concludes the Findings and Recommendations  
6 are supported by the record and proper analysis. Accordingly, the Court **ORDERS**:

- 7 1. The Findings and Recommendations issued on November 27, 2023 (Doc. 34) are  
8 **ADOPTED** in full.
- 9 2. This case is **DISMISSED** without prejudice for failure to prosecute and failure to  
10 comply with Court's orders.
- 11 3. The Clerk of Court is directed to close this case.

12 IT IS SO ORDERED.

13  
14 Dated: **May 6, 2024**

  
UNITED STATES DISTRICT JUDGE